

REMARKS

The Applicants have carefully reviewed the Office Action of February 27, 2003. In response the Applicants have amended the specification to correctly reference “weight per unit area” rather than “density” where appropriate. Additionally, the specification has been amended to properly reference the renumbered drawing figures. Further, three new paragraphs have been added between original paragraphs 20 and 21. These paragraphs correspond to the identified material incorporated by reference from U.S. Patent Application Serial No. 09/607,478 entitled “Process for Forming a Multi-Layer, Multi-Density Composite Insulator” identified in paragraph 20. Replacing the identified material incorporated by reference with actual text is not new matter in accordance with MPEP § 2163.07(b).

Also submitted with this amendment is a revised drawing sheet for the review and approval of the Examiner. In the revised drawing Figure 6 has been renumbered as Figure 5 as illustrated in red ink. This is because original Figure 5 is now canceled from the application.

Turning now to the claims, claim 1 has been amended to more clearly patentably distinguish over the prior art. Claim 2 has been canceled and re-presented in independent form as new claim 8. Claim 3 has been amended to depend from claim 1 while claim 4 has been amended to depend from claim 3.

Claim 5 has been amended to refer to “weight per unit area” rather than “density”. Additionally, new claims 9-13 are presented for the review and approval of the Examiner. These new claims 9-13 substantially correspond to original claims 3-7 but depend from new claim 8.

Turning now to the substantive issues, amended claim 1 very clearly patentably distinguishes over U.S. Patent 6,008,149 to Copperwheat. As set forth on page 2 of the present application, the Copperwheat patent relates to an acoustical and thermal insulation liner including multiple layers of non-woven polymeric material that are laminated together in order to provide the desired mechanical strength and rigidity and acoustical and thermal insulating properties.

As noted on pages 2 and 3 of the present application, laminated liners have an inherent risk of delamination and failure. The potential is, in fact, significant because of the harsh operating environment to which the liners are subjected. Many liners are located near and/or are designed to shield high temperature sources such as the engine, transmission and exhaust system. Thus, the liners are often subjected to temperatures in excess of 200 degrees F which have a tendency to degrade adhesives and binders over time. Further, many are subjected to water from the surface of the roadway. That water has a tendency to be drawn by capillary action into the interface between the layers of the liner. That water may have a deleterious effect upon the integrity of the adhesive that binds the layers together. This is particularly evident when one considers that the water may also include in solution salt or other roadway chemicals, including oils and petroleum products, which are commonly corrosive and destructive to these adhesives.

In contrast to the liner disclosed in the Copperwheat patent, claim 1 of the present invention reads upon a trim panel, consisting essentially of a single, nonlaminated acoustical and thermal insulating layer of polymer fiber. That fiber is selected from a group consisting of polyester, a combination of polyester and fiberglass, polypropylene and any mixtures thereof. Applicants submit that the

multilayer liner disclosed by Copperwheat does not show or suggest the nonlamine insulating layer claimed.

Claims 3-7 which depend from claim 1 and are rejected on the same grounds are, of course, equally allowable for the same reasons.

While the Examiner also maintains that claims 6 and 7 should be rejected under 35 U.S.C. §112, second paragraph for indefiniteness, it must be appreciated that the use of the term “approximately” does not make these claims indefinite. In *In Re Hauserman, Inc.*, 15 USPQ2d 1157 (Fed. Cir. 1989), the Court of Appeals for the Federal Circuit noted that “Words such as 'substantially', 'approximately', and 'about' are often used in claims to prevent a potential infringer from avoiding literal infringement simply by making a modification.” In view of the acceptance of the utilization of the term “approximately” in claim language by the Court of Appeals for the Federal Circuit, it is believed that the rejection of claims 6 and 7 as being indefinite under 35 U.S.C. §112 is clearly improper and should be withdrawn.

New claim 8 is an independent claim based from original dependent claim 2. Claim 8 reads on a trim panel insulator for a vehicle comprising a single, nonlamine acoustical and thermal insulating layer of polymer fiber selected from a group consisting of polyester, a combination of polyester and fiberglass, polypropylene and any mixtures thereof. Further, claim 8 provides that layer includes a nonlamine skin of polymer fiber along at least one face. That nonlamine skin is then explicitly set forth as having a higher density than a remaining portion of the insulating layer.

As noted above, the Copperwheat patent relates to a multilayer laminate liner and in fact teaches away from providing a single, nonlaminated acoustical and thermal insulating layer of polymer fiber as set forth and claimed in claim 8 of the present application. Further, the Copperwheat patent fails in any way to teach or suggest a single, nonlaminated acoustical and thermal insulating layer also including a nonlaminated skin of polymer fiber having a higher density than a remaining portion of the insulating layer. Accordingly, it is very clear that claim 8 patentably distinguishes over the cited art and should be formally allowed.

New claims 9-13 which depend from claim 8 are also allowable for the same reasons.

In summary, all the pending claims patentably distinguish over the prior art of record in this patent application including the Copperwheat patent. Upon careful review and consideration, it is believed the Examiner will agree with this proposition. Accordingly, the early issuance of a formal Notice of Allowance is earnestly solicited.

If any fees are required pertaining to this Amendment, Applicant requests that they be charged to Deposit Account No. 50-0568.

Respectfully submitted,



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